



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 8 – IMMIGRATION LAW*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Immigration Law Handbook, 10th edition, Phelan and Gillespie, Oxford University Press, 2018.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

SECTION A
(Answer at least one question from this section)

1. Discuss the importance of UK immigration control explaining, with reference to the applicable laws, the main forms of immigration control governing entry and stay in the UK.

(25 marks)

2. The points-based system (PBS) was introduced to simplify and consolidate managed migration into the UK.

- (a) Explain and analyse the purpose and requirements of the Tier 2 (General) category of the points-based system, stipulating the points that an applicant requires in order to enter under this Tier and how they can be achieved.

(12marks)

- (b) Discuss the requirements and exceptions that all posts to be filled by a Tier 2 (General) migrant, must satisfy, to meet the resident labour market test (RLMT).

(13 marks)

(Total: 25 marks)

3. (a) With reference to the Immigration (European Economic Area) Regulations 2016, identify and describe those who benefit from exercising Treaty Rights and the benefits that are derived from these rights.

(15 marks)

- (b) Explain the different levels of protection against expulsion of EEA nationals, and state the relevant factors that need to be considered by a Member State.

(10 marks)

(Total: 25 marks)

4. With reference to relevant case laws, identify and explain the powers by which a non-EEA national who has been convicted of a criminal offence, or is alleged to be involved in criminal offences, can be liable to deportation.

(25 marks)

SECTION B
(Answer at least one question from this section)

Question 1

Mariam Kouly from Togo seeks your advice. On 7 September 2016, she arrived in the UK with leave to enter as a student. Mariam completed her Master's in the UK with leave. On 10 August 2017, she was granted an extension of stay for 30 months as the spouse of Tom Tomlinson, a British citizen.

In October 2018, the couple's son, Paul Tomlinson, was born. A few weeks ago, Tom lost his job. The couple's financial problems have caused them to argue. Tom has become a completely different person, very controlling and physically violent towards Mariam. One night recently, Tom took away Mariam's phone and questioned her about all her phone contacts. He screamed at her and hit her across the face, accusing her of cheating on him. Mariam reported the incident to the police.

Mariam could no longer tolerate the abuse. She sought legal assistance, fled the family home and filed for a divorce. Mariam and Paul are currently staying with a friend of Mariam on a temporary basis, until she is able to find somewhere suitable to live.

Mariam is worried about her immigration situation, now that she has separated from Tom and filed for a divorce.

- (a) Identify and describe the four categories of family migration that provide a route to enter and remain in the UK for those with family life.
- (5 marks)**
- (b) Advise Mariam on her immigration situation, explaining the application she may be able to make under one of the categories identified in (a) and the evidence she needs in order to support her application.

(20 marks)
(Total: 25 marks)

Turn over

Question 2

Carlos Morales is a Colombian citizen. He lives in Colombia. Carlos wishes to visit his son Josh, who has recently been diagnosed with cancer. Josh is a British citizen and he is 12 years old. He lives with his mother, who is also a British citizen, in Manchester. Carlos is 45 years old.

Carlos has recently lost his job as a driver. He has only a small amount of savings but his ex-wife has said she will fund the costs of Carlos' visit, if he pays the airfare. Carlos would like to stay in the UK for three months. Carlos has a very strong relationship with Josh. They speak regularly over social media in accordance with an existing child arrangement order.

Josh has never visited Colombia and could not visit Colombia because of his illness. Carlos is worried that his visit visa will be refused and would like some advice.

- (a) Advise Carlos on the necessary steps to apply to visit his son and the factors relevant to intention that he will need to satisfy.

(15 marks)

- (b) Advise Carlos on whether he would have a right of appeal if his visit visa application was refused and consider any grounds he could rely on.

(10 marks)

(Total: 25 marks)

Question 3

Zakiel Obinwa is a Nigerian citizen. He travelled to Italy in 2010 to visit his long-lost friend. While he was visiting Italy, he met and fell in love with Janet North. Janet is an Italian citizen. She is originally from Nigeria but had emigrated to Italy a few years previously and naturalised as an Italian citizen.

Zakiel returned to Nigeria and maintained his relationship with Janet through regular visits, writing letters and telephone calls. While Janet was on holiday visiting her family in Nigeria, they decided to get married. After the wedding, she returned to Italy with Zakiel.

In November 2017, the couple relocated to the UK. They currently live together in the UK with Janet's child, Rob, from a previous relationship. Rob is also an Italian citizen.

Janet is currently employed as a social care worker at Johnson & Johnson Care Solutions in Hull, UK. She has been working in the UK as a social care worker since 7 November 2017.

Zakiel was previously married to Gladys, who was a Nigerian citizen. Together they had two children, Emmanuel (who was born on 4 April 2005) and Anointed (who was born on 5 June 2009). Gladys died in 2009 during the birth of Anointed. Both children are dependent on their father Zakiel and their stepmother Janet, but have been looked after by Zakiel's sister, Mavis, in Nigeria since 2009. Zakiel and Janet have joint financial responsibilities for all their children, including a joint bank account and a joint tenancy agreement for their house in the UK.

Zakiel initially made applications for Emmanuel and Anointed to join him and his family in the UK, but their applications were refused, because of limited and/or poor supporting documents.

Zakiel has asked for your help in making a fresh application, so that his children are granted permission to join him in the UK. Zakiel currently has an EEA residence card valid until 15 July 2019.

Advise Zakiel, with reference to the relevant laws, on the application he is able to make for Emmanuel and Anointed to join him in the UK and on the evidence required to support their applications.

(25 marks)

Turn over

Question 4

Damien Brown is a British citizen currently living and working in the UK. Damien is a geologist and an expert in the mineral and gas mining industry.

Damien met his partner, Michelle Odema, in September 2016, while he was on a working holiday to Mozambique. Michelle is a Mozambican citizen currently residing in Mozambique. She works as a beautician in a top hair salon.

Damien and Michelle lived together in Mozambique prior to his return to the UK as an ordinary resident in September 2018. They have a daughter, Angela, who resides with Damien in the UK. Michelle has a son, George, from a previous relationship. George is 16 years old, he is a Mozambican citizen and lives with his mother. Angela is a British citizen. Damien and Michelle would like to get married in the UK and remain in the UK. Michelle is a bit worried, because they have lived apart for four months already.

Damien is currently employed by Mineral & Gas UK. His annual gross income is £38,000. Damien has been in his current employment since December 2018. He lives in a three-bedroom house.

Advise Damien, with reference to the Immigration Rules, on the application that Michelle may be able to make to get married in the UK and remain in the UK. Identify all the requirements that must be met and evidence that must be provided to support her application.

(25 marks)

End of Examination Paper

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